G.R.S. IX—5]

Previous references. 1925-6 (CS) **File No.** 86/4-

Serial Nos. 142

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 142

Part B for Cont. 1924

SUBJECT

Question of paying to Mr. S.D.S. Iyengar the surrender value due on his Insurance policies

To The Secretary, Mysore State Life Insurance Committee.

No. 1097 D. 28/10/24.

State that the surrender values on the policy held by Mr. S.D.S. Iyengar may be paid to him

#3

(For Disposal at a Meeting)

No. C. 148

of 1926.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clause vii of the Schedule)

Question of paying Mr.S.D.S.Iyengar, the surrender value, [illegible] Insurance policies.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Chief Secretary to Government.

[illegible] September 1925.

Extraordinary Member of Council.

451/16-9

First Member of Council.

2722/19/9

Second Member of Council.

Extra Member of Council.

2

PUBLIC WORKS SECRETARIAT
Regd. No. 345
Date 30/7/25
BANGALORE.

No. 1905

OFFICE OF THE SECRETARY,
MYSORE STATE LIFE INSURANCE COMMITTEE,

Bangalore, dated 28th July 1925.

29.7.25

From

T. SATYARAJ CHETTY, Esq., B.A.,

Secretary, Mysore State Life Insurance Committee,

Bangalore.

To

K. R. Seshachar, Esq., B.A., B.E.,

Secretary to Government of Mysore,

(Public Works Department), BANGALORE.

Sir,

I have the honour to request you to be so good as to intimate whether the sum of Rs.2,469-7-6 being the surrender value available for payment to Mr. S. D. Seshadri Iyengar, Ex-Chief Operator, C.P.S. Sivasamudram on his policy No.24973 may be paid to him, as he has applied for the same.

I have the honour to be,

Sir,

Your most obedient servant,

Deputy Secretary,
Insurance Committee. 28/7/25

myself
& Satyaraj
may be submitted
to sect for orders
VCR
30.7.25

SV.

05248

3

Public Works and Electrical Secretariats. | C.R. File No. | of 192

Serial No.

C.S. 241

Forwarded, with compliments, to the ---- Chief Secretary to Government, for favour of -- disposal, as the files relating to Mr. S. D. Seshadri Iyengar's case are in the Chief ------- Secretariat-

K. of Seshadri

Secretary to Government,
Public Works Department.

Bangalore,

July 1925.

T.R.S.

the confidential collection containing G.O. no 1703-6 (C.B. 29-23 dated 19th Jan. 25, ordering that the civil suit filed against Mr. S.D.S. Iyengar for the recovery of a sum of Rs 69,398-12-7 be withdrawn, is put up.

Submitted for orders.

12.8.25.

No information is available except that contained in the note. The papers may perhaps be returned with Dewan. No information available 12.8

No further liability having been fixed - the amount already paid need - Please Circulate to Mr. VC & Resident thro Secy

Note—Contn. sheet.

WD 2468—GPB—2,000 copies 20-6-24

I agree with the Dewan 13.8

13.8

4 241

I am unable to offer an opinion as I do not know whether the decision of for to drop all further Civil proceedings was based on the assumption (as noted in one place) that Defrs had no property or whether it was decided not to take a Civil action or recover anything further in any cases. In the former case, the amounts would be forfeited; & in the latter, not.

Ld
17/8/25

At present might be put to peer with compliments.
hm
17.8.25.
18.

Noted
19.8.25.

hm
19.8.25.

Seen.
Hy Slater
Crown
4
19.8

Final Letter
with compliments

27.8
With the Criminal case decided in the favour of the Civil case has not much to do with it. Until the Civil case has taken its course & decided if he has any property which it can take in his name against which we can proceed, even if the Civil case is decided in our favour.
Michael Hill.

Serial No

In Government Order dated 28th December 1923 Mr. S.D.S.Iyengar's liability was fixed at Rs 30,000 and he was asked to pay this sum in five annual instalments of Rs 6,000 each and to execute a document to that effect and that if he failed to do so, a Civil Suit be filed against him for the total liability as found against him by the Commission."

With the Criminal case decided in his favour, the Civil case lost much of its strength and as it was also expected that he would have probably no property against which we can proceed even if we obtain a decree, it was decided to drop the Civil Suit against him. The withdrawal of the Civil Suit was, therefore, due to the difficulty or impossibility of recovering any money from him through the intervention of a Court of Law.

The Surrender Value due to him is now in the possession of Government and there is no difficulty in adjusting it against the amount due by him, if such adjustment is permissible. Rule 23 of the Insurance Rules provides that "payment under this Rule shall be subject to deduction of any amount that may be due to Government by the Insured." Government have, therefore, reserved power to realise from the amount due by an Insured Officer any sum that he may owe them. Recoveries towards losses caused by officers are also enforced under this Rule.

As Mr. S.D.S.Iyengar has been held liable to make good Rs 30,000, as the dropping of the Civil Suit

Suit was not the result of exculpating him from this liability but ~~due to~~ the difficulty or impossibility of enforcing it through a Court of Law and, as the Insurance Rules provide for recoveries of amounts due to Government, I think the Surrender Value due on Mr. S.D.S.Iyengar's policies has to be adjusted against his liability.

He may contest the validity of any such adjustment and legal opinion may, therefore, be taken as to whether the Surrender Value cannot be used by Government in partial satisfaction of the amount assessed to be due by him, under Rule 23 of the Insurance Rules.

29.5.25

Dewan

29.8

29/8

With a view to ascertain the exact terms on which the original suit was withdrawn I addressed the Govt Advocate

From the order of the 2nd June (Flag Y) it is clear that the suit was permitted to be withdrawn by the plaintiff (Govt).

The legal effect of such withdrawal without permission of the Court is that the Govt shall be precluded from instituting any fresh suit in respect of such subject matter or such part of the claim. (See O. 23 r. 3 of Civil Procedure Code)

NOTE—Contn. Sheet

Serial No

Hence it is apparent that the Govt have lost a valued privilege of pressing their claim for Rs 69,000 & odd by not taking the permission of the Court for such withdrawal under r 2 of O. 23 C.P.C.

I find from the file that no legal opinion was taken when G.O of 18th Jan 1925 was passed to the effect that the civil suit filed against him be also withdrawn (Flag P). Even the Govt Advocate ought to have brought this technical point to the notice of Govt.

The result of this defect is that the Govt cannot press their claim against the L.D. Iyengar in a Court of Law either by a suit or by way of a set off when the latter files a suit for the recovery of Insurance Amount.

For these reasons I am of opinion that the Surrender Value cannot be adjusted against his liability for which he is not liable to payment of any dues to Govt after the withdrawal of the suit either permission of the Court.

Dewan. 14.9

How can you say
what seem to be
We finds clear say
" The suit permitted to be
withdrawn "
14.9

Serial No.

A complete enunciation of the law relating to the withdrawal of and from suits is to be found in Order XXIII Rules 1, 2, 3 and 4 of C.P.Code.

Rule 1 contemplates a withdrawal of the suit

Rule 2 withdrawal from the suit with liberty to institute a fresh suit in respect of the subject matter of such suit or such part of a claim.

Rule 3 relates to the plaintiff withdrawing from the suit without permission referred to in Rule 2 and to his liability to pay costs.

It clearly enacts that he shall be precluded from instituting any fresh suit if he withdraws without permission referred to in Rule 2.

O. 23 is based on the principle that when once the court has seisin of jurisdiction over a cause the action of the parties is controlled by the Court and they cannot pursue any other remedy without the sanction of the Court and the Courts do not permit of a party being twice vexed over the same cause.

Rule 2 clearly contemplates permission not for withdrawing from such suit but for liberty to institute a fresh suit in respect of the subject matter of such suit. The law is that if a party desires to withdraw from the suit with liberty to institute a fresh suit he must apply to the Court under Rule 2 to permit him so to withdraw and that he should show to the satisfaction of the court that the suit must fail by reason of some formal defect or that there are sufficient grounds for allowing him to institute a fresh suit in respect of the subject matter of a suit and that the permission to institute

NOTE.—Contn. Sheet

Serial No.

a fresh suit by the Court must be in express terms and cannot be implied. (See Mulla on C.P.C. pp.678 and 679).

Unless the Court is satisfied that the suit must fail owing to some formal defect or that there are sufficient grounds, it has no jurisdiction under Rule 2 to give permission to withdraw the suit with liberty to file a fresh suit in respect of the same subject matter.

In the present case, the Government Advocate did not apply to the Court for permission to withdraw the suit with liberty to file a fresh suit and did not say that the suit is liable to fail by reason of formal defect nor did he say that there are sufficient grounds for allowing him to institute a fresh suit. In other words he did not ask the Court under Rule 2 to grant him permission to institute a fresh suit.

He merely exercised his right to withdraw the suit under rule 1. In such cases no order of the Court is necessary except as to costs.

The effect of the Judge's order permitting him to withdraw the suit is that the plaintiff is not mulcted in costs.

The permission to withdraw the suit is different from permission with liberty to institute a fresh suit. In Mahant v Purushotam Das 32 Bom. 345 at p.347 Jenkins C.J. observed as follows:--

"It (namely section 373 C.P.C. corresponding to O.23 rules 1 to 4) contemplates a withdrawal not of the suit but from the suit, and such a withdrawal may be either with or without liberty to bring a

General and Revenue Secretariat.

File No. 384 of 19

Serial No.

fresh suit. If a party desires to withdraw from the suit with such liberty, then he must apply to the Court to permit him so to withdraw. If he does not desire to have that liberty, then he can withdraw of his own motion and no order of the Court is necessary." In the present case the Court did not pass any order under O.

Hence it is clear that the Government cannot institute a fresh suit in respect of the sum of money claimed in that original suit.

Dewan

15.9

Chief Secy with compliments.

16.9

16.9

NOTE—Contn. Sheet

Extract from the Proceedings of the 753rd *Meeting of the Council of His Highness the Maharaja, held at Bangalore on the* 15th October 1925. *19*

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60. Subject. - Clause v of the schedule.

Question of paying Mr. S. D. S. Iyengar the surrender value due on his Insurance Policies.

OPINION OF THE COUNCIL.

The surrender value of the State Life Insurance Policies of Mr. S. D. S. Iyengar amounting to Rs.2469-7-6 may be paid to him as the suit was withdrawn without carrying any further liability against him.

(Signed) A. R. BANERJI,

Dewan of Mysore.

"EXTRACT"

Chief Secretary to Government.

WD 488—GPB—1,000—1-9-26

Submitted to His Highness.

The surrender value on the insurance policies of Mr. S.D.S. Iyengar, late General Superintendent, Sivasamudram, is calculated at Rs. 2,469-7-6. The Insurance Secretary has enquired whether this amount may be paid to Mr. S.D.S. Iyengar.

In the Government Order on the VI Installation irregularities, Mr. S.D.S. Iyengar was held liable for a sum of Rs. 30,000 and a Civil suit was filed against him for this amount. But after he was acquitted of the criminal charges against him, the civil suit was also withdrawn. The Financial Secretary states that the dropping of the Civil Suit was not the result of exculpating him from the liability but of the difficulty or impossibility of enforcing it through a Court of Law and he considers, therefore, that the surrender value has to be adjusted against his liability.

The Local and Legislative Secretary is of opinion that the surrender value cannot be adjusted against his liability for in law he is not liable to payment of any dues to Government after the withdrawal of the suit without the permission of the court to file another suit on the same claim.

The matter was considered in Council at the meeting held on the 15th October 1925 when the following resolution was recorded:--

> "The surrender value of the State Life Insurance Policies of Mr. S.D.S. Iyengar amounting to Rs.2,469-7-6 may be paid to him as the suit was withdrawn without carrying any further liability against him."

The recommendation

The recommendation of the Council may be graciously approved.

Bangalore,
20th Octr.1925.

CSR.

Confidential. (14

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

H.H. No 242
20-10-1925.

Payment to Mr. S.D.S. Iyengar, late General Superintendent, Sivasamudram, of the surrender value due on his Insurance Policies.

27

Order.

~~KRW~~
21/10/25

Chief Sy
22 OCT 1925

(15

C 148

General and Revenue Secretariat

C. B. 86 - 25

Question of passing Mr. S. D. S. Gunpur the Surrender Value, due on his insurance policies.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circlated to the Members of Council at headquaters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before /after* issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

....Department.

FIRST MEMBER OF COUNCIL. 23/10

SECOND MEMBER OF COUNCIL. 24/10/25

3679 23/10

EXTRA MEMBER OF COUNCIL.

Order submitted.

NOTE - Contn. sheet.

Ans 24/10.25

2/11

(10

[App. F. III—2

General and Revenue Secretariat

C. B. File No. 86 of 1925.

Serial No 2

To

The Secretary, Mysore State Life Ins.

Cur. no 10978 28.10.25—

States that the surrender value on the policy held by Mr. S. D. S. Iyengar may be paid to the insured.*

No. 1098: copy to Secy. P W.D.

B

NOTE.—Contn. Sheet

(17

App.F.VI-G1.] B650

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

, the *192*

Date of issue 31/8/25

Signed by .....

List of enclosures.....

Copied by 31/8

Examined by.....

Section

File No.

Serial No.

No. 1340

To The Govt Advocate

Sir,

In regard to U.S No 15 of 1925 on the file of the D.C. Jaffna Ramalingam (Govt of Ceylon Vs F.D. S. Kencan & S.L. Ramalingam Kencan) which has been withdrawn as per order of Govt. I have been directed to request you to forward a copy of the application filed on behalf of Govt praying for permission to withdraw the suit. And

over

Center of the area
and cystic fundus known

The matter may
thereby treated as
- medical and surgical
if in 2 days

Thanks

L. M. Fuller

1099

In reply please refer to No. 749

11779 OFFICE OF THE GOVERNMENT ADVOCATE IN MYSORE,

Tel. Address:—
"JURIST," Bangalore.

Bangalore....4th....September.....1925.

FROM

K. SHANKARANARAYANA RAO, ESQ., M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Local & Legislative Departments,
BANGALORE.

SIR,

With reference to your letter No. P.1340/Law. dated the 31st August 1925, I have the honour to state that the fact that Original Suit No.15/1924-25 on the file of the District Judge, Bangalore Dvn. (Govt. of Mysore VS. S.D.S. Iyengar & another) was withdrawn as per orders of Govt. has been reported to them in this office letter No.749 dated the 27th February 1925, and the copy of the order passed by that Court has also been forwarded to Govt. with this office letter No.765 dated the 5th March 1925.

I have the honor to be,
Sir,
Your most obedient servant,
K Shankaranarayana Rao
Government Advocate.

CSN.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

The letter referred to above does not seem to have been received in this office. May it not have been addressed to the Chief Secretary, or Advocate-General, the Confidential Branch may be requested to find out the matter & if they have been received there

1099 - yes. CSN 7.9
7.9.25

CS 549

7/9 To the Confidential Branch for kindly pulling up the papers

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

549

The file containing the connected papers is treated as strictly confidential and it has been put up for reference with Mr. S. D. S. Benjamin's claim for refund of Share Life insurance amount which has been submitted to the Asst. Legl. Secy. for favour of opinion.

mst/hw
11/9/24.

It was submitted, perused, and complied

Filed
[illegible]
549

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

G.R.S. III—8]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

12625

2469-24 The Bangalore Press

FIRST REMINDER.

3384.

No. 96 ....
10 SEP 25

From

THE SECRETARY,
Mysore State Life Insurance Committee,
BANGALORE.

OFFICE OF THE SECRETARY,
MYSORE STATE LIFE INSURANCE COMMITTEE,

Bangalore, dated 9/9/25 to 9.9.25

To The Chief Inspector of the Court of Wards Bangalore

No. 3178 Date 18/8/25

Sir,

I have the honour to invite your attention to my letter noted in the margin, and to request an early reply thereto.

I have the honour to be,

Sir,

Your most obedient servant,

D. Ramaswamy Iyer

Assistant Secretary.

Requested to send early the Form of Proposal Revised 1924-25 in No 2493 issued to D. Shankarappa Esqr. Rs 2469-7-6 may be paid to him

The matter has been referred to the Law Dept for favour of opinion

Papers for perusal

Asst 9.9.25

N.B. - Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

(12)

General and Revenue Secretariat. | File No. | of 19

Serial No.

The Government have accepted the resignation of Mr.S.D.S.Iyengar and also ordered that the Civil suit filed against him be withdrawn (Vide G.O.No.1703-4/C.B.29-23 dated 19th January 1925 sent to Secretary to Government, Public Works Department also on 19th January 1925.)

Returned with compliments to the Secretary to Government, Public Works Department, for favour of disposal, in consultation with the Chief Electrical Engineer, if necessary.

12/8/25

12.8.

NOTE—Contn. Sheet

No. E.D.S. 612

MYSORE PUBLIC WORKS DEPARTMENT,
CENTRAL OFFICE,
Dated Bangalore, 17th August 1925.

FROM

K. R. SESHACHAR, ESQ., B.A., B.E., C.E.,
Secretary to the Government of Mysore,
Public Works and Electrical Departments,
Bangalore.

C.P. 369

To

The Secretary,
Mysore State Life Insurance Committee,
BANGALORE.

SIR,

Adverting to correspondence ending with your letter No. 2586 - dated the 11th August 1925, re. the payment of a sum of Rs 2,469-7-8 -- being the surrender value to Mr. S.D. Seshadri Iyengar, Ex-Chief ------ Operator, Sivasamudram, I have the honour to inform you that the --' matter has been referred to the Chief Secretary to Government for --- disposal-

Further communication may kindly be made direct to that ---- officer.-

I have the honour to be,
S i r,
Your most obedient servant,

07935

Sd. K.R. Seshachar.

Secretary to Government,
Public Works Department.

K.B.R.

No. E.D.S. 613 Dated, Bangalore the 17th August 1925.

Copy of the above is forwarded with compliments, to the Chief Secretary to Government for information, in continuation of this office No. E.D.S.422 dated the 30th July 1925.

K. R. Seshachar

Secretary to Government,
Public Works Department.

K.B.R.

08150

No. 3178 Encl

OFFICE OF THE SECRETARY,
MYSORE STATE LIFE INSURANCE COMMITTEE,

Bangalore, dated 18/7 1925.

From

T. SATYARAJ CHETTY, Esq. B.A.,

Secretary, Mysore State Life Insurance Committee,

Bangalore.

CS·384.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

Sir,

In forwarding herewith copies of this office letter No.1905, dated 29th July 1925 addressed to the Secretary to Government of Mysore, (Public Works Department) Bangalore and his reply No.E.D.C.612,dated the 17th inst., I have the honor to request you to be so good as to intimate if the sum of Rupees 2,469-7-6 being the surrender value on policy No.24973 held by Mr. S. D. Seshadri Iyengar, Ex.Chief Operator, Sivasamudram may be paid to the - - - insured.

An early reply in the matter is requested.

I have the honor to be,
Sir,
Your most obedient servant,

For Secretary,
Insurance Committee.

The connected file is under submission to Darkhast. This will be placed in that file.

CV/18/8

(5

Letter No.1905, dated 29th July 1925, from the Secretary, Mysore State Life Insurance Committee, to the Secretary to Government of Mysore (Public Works Department) Bangalore.

***

I have the honor to request you to be so good as to intimate whether the sum of Rs.2,469-7-6 being the surrender value available for payment to Mr. S. D. Seshadri Iyengar, Ex-Chief Operator, C.P.S., Sivasamudram on his policy No. 24973 may be paid to him, as he has applied for the same.

****

Letter No.E.D.S.612, dated 17th August 1925, from the Secretary, to Govt. of Mysore, (Public Works Department) Bangalore, to the Secretary, Mysore State Life Insurance Committee, Bangalore.

****

Adverting to correspondence ending with your letter No.2586 dated the 11th August 1925, regarding the payment of a sum of Rs.2,469-7-6 being the surrender value to Mr. S. D. Seshadri Iyengar, Ex-Chief Operator, Sivasamudram, I have the honor to inform you that the matter has been referred to the Chief Secretary to Government for disposal.

Further communication may kindly be made direct to that officer.

****

"C O P Y"

Deputy Secretary,
Insurance Committee.

SV.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section C.B.
File No. 86/25
Serial No. 2

GENERAL AND REVENUE SECRETARIAT
( )
, the *191* .

No. 1097

Date of issue 28/10/25

Signed by Sri M. Venkatesa Iyengar

To

The Secretary, Mysore State Life Ins. Committee.

Sir,

With reference to your letter no 3178 R 18th Aug 25, I am directed to state that the surrender value on the Policy held by Mr. S.S. Iyengar Ex. Chief Operator, Sivasamudram, may be paid to the assured

I have etc.

for Chief Secy

Copy to the Secy, P.W.D, with reference to his correspondence ending with his no E.D.S. 613 R 14.8.25.

1096 CB 27/28/10/25

BY

Sent 26/10/25

27.10